

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Augustyn Kasprzyk,)	Case No. 17-cv-08523
)	
Plaintiff,)	Honorable Charles R. Norgle, Sr.
)	
vs.)	
)	
Axiom Financial LLC, formerly known as,)	
Axiom Financial Services, et al.,)	
)	
Defendants.)	

U.S. BANK DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT¹

Defendants American Home Mortgage Servicing, Inc.; Homeward Residential Holdings, Inc.; Ocwen Loan Servicing, LLC (incorrectly named separately as Ocwen Loan Servicing, LLC and Ocwen Financial Corporation); U.S. Bank National Association, as Trustee for Accredited Mortgage Loan Trust Asset-Backed Notes, Series 2007-1 (incorrectly named as U.S. Bank Trust National Association, and incorrectly named separately as Accredited Mortgage Loan REIT Trust); and, Citigroup, Inc., (collectively the “U.S. Bank Defendants”) through counsel Dykema Gossett PLLC, move this Court for an Order dismissing Plaintiff’s Amended Complaint with prejudice pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure because the Complaint fails to state a plausible claim for relief and this Court lacks subject matter jurisdiction pursuant to the *Rooker-Feldman* doctrine. In support of its motion, U.S. Defendants rely upon the law and arguments set forth in the accompanying brief in support.

¹ The Court ordered Plaintiff to respond to pending motions to dismiss [DE 13, 18, 21] by June 4, 2018. Order, DE 33. On June 5, 2015, Plaintiff filed an Amended Complaint in lieu of filing a response to the motions to dismiss. Amended Complaint, DE 35. Plaintiff’s Amended Complaint was filed without leave of court (*see, e.g.*, DE 33, 34, & 35) and is procedurally improper under the Federal Rules of Civil Procedure. *See Fed. R. Civ. P. 15(a)(1)*. To the extent the Court accepts Plaintiff’s Amended Complaint, it should be dismissed with prejudice for the reasons stated herein and in the accompanying brief in support.

WHEREFORE, U.S. Bank Defendants request that this Court grant their Motion and enter an Order dismissing Plaintiff's Amended Complaint with prejudice, and granting such other relief in Defendants' favor, and against Plaintiff, as is just and proper.

Dated: June 18, 2018

Respectfully submitted,

Defendants American Home Mortgage Servicing, Inc.; Homeward Residential Holdings, Inc.; Ocwen Loan Servicing, LLC (incorrectly named separately as Ocwen Loan Servicing, LLC and Ocwen Financial Corporation); U.S. Bank National Association, as Trustee for Accredited Mortgage Loan Trust Asset-Backed Notes, Series 2007-1 (incorrectly named as U.S. Bank Trust National Association, and incorrectly named separately as Accredited Mortgage Loan REIT Trust); and, Citigroup, Inc.

By: /s/ Dawn N. Williams
One of Their Attorneys

Todd Gale (6229288)
tgale@dykema.com
DYKEMA GOSSETT PLLC
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606
Phone: 312-627-2173
Fax: 866-457-8542

Dawn N. Williams (6308222)
dwilliams@dykema.com
DYKEMA GOSSETT PLLC
300 Ottawa Ave., N.W., Suite 700
Grand Rapids, MI 49503
Phone: 616-776-7518
Fax: 855-234-8873